
OLR Bill Analysis

sHB 7085 (as amended by House "A")*

AN ACT CONCERNING A REVIEW OF THE RELEASE-BASED CLEANUP PROGRAM AND RELATED REGULATIONS.

TABLE OF CONTENTS:

SUMMARY

§ 1 — RELEASE-BASED CLEANUP REGULATIONS WORKING GROUP AND EVALUATION

Requires the working group established to advise DEEP on developing RBCRs to continue meeting after the regulations are adopted to evaluate the release-based cleanup program's implementation and review and make recommendations on related laws and regulations, including lower bounds provisions; requires the DEEP and DECD commissioners to (1) convene the group quarterly until February 1, 2030, and (2) report on the working group's findings and recommendations twice to the Commerce and Environment committees

§§ 2 & 3 — REMEDIATING TRANSFER ACT PROPERTIES UNDER THE RBCRS

Establishes conditions under which a property covered by the Transfer Act may be remediated under the RBCRs' requirements

§ 4 — EXEMPTION OF RELEASES DISCOVERED BEFORE MARCH 1, 2026, FROM RBCRS' REQUIREMENTS

Exempts release data available or created before the RBCRs take effect on March 1, 2026, from triggering the release-based requirements

§ 5 — PROHIBITION ON REOPENING A REMEDIATION ON CERTAIN RESIDENTIAL PROPERTIES

Prohibits the DEEP commissioner from reopening a property's remediation if she determines that there is a violation of the release-based remediation law if the property is used only as an owner-occupied single-family home

§ 6 — RESIDENTIAL ACTIVITY RESTRICTIONS

Restricts residential activity on a residential property where a release is discovered if certain conditions are met, allowing the RBCRs' criteria for industrial or commercial property to be used when determining certain remediation requirements

BACKGROUND

SUMMARY

This bill makes various changes to laws regarding the remediation of hazardous waste to transition the state from its transfer-based approach

to property remediation (the Transfer Act) to a release-based approach under recently adopted release-based cleanup regulations (RBCRs; see BACKGROUND). A section-by-section analysis follows.

*House Amendment “A” replaces the underlying bill with similar provisions and in doing so (1) specifies how the working group must evaluate the RBCRs and requires the group to continue meeting after the commissioner adopts implementing regulations, (2) adds provisions to incorporate the RBCRs into the Transfer Act’s remediation process, and (3) creates a process for residential activity restrictions under the RBCRs.

EFFECTIVE DATE: October 1, 2025, except upon passage for the provisions on the working group and the applicability of the RBCRs to releases discovered before March 1, 2026.

§ 1 — RELEASE-BASED CLEANUP REGULATIONS WORKING GROUP AND EVALUATION

Requires the working group established to advise DEEP on developing RBCRs to continue meeting after the regulations are adopted to evaluate the release-based cleanup program’s implementation and review and make recommendations on related laws and regulations, including lower bounds provisions; requires the DEEP and DECD commissioners to (1) convene the group quarterly until February 1, 2030, and (2) report on the working group’s findings and recommendations twice to the Commerce and Environment committees

The bill requires the existing working group established to advise the Department of Energy and Environmental Protection (DEEP) commissioner on developing RBCRs to continue meeting after the regulations are adopted. The bill clarifies that the Department of Economic and Community Development (DECD) commissioner (1) must jointly lead the working group with the DEEP commissioner and (2) may consult a representative from the brownfields working group while carrying out this group’s duties. It also specifies the number of representatives to serve as members from each stakeholder group currently represented on the working group. It simultaneously adds members representing Connecticut’s business and industry and banking industry associations, two and one respectively.

Under the bill, once the RBCRs are adopted, the working group must

meet at least quarterly until February 1, 2030, to do the following:

1. evaluate the release-based cleanup program's implementation and efficacy and give related advice and feedback to the DEEP and DECD commissioners and
2. review and make recommendations on the laws and regulations related to release-based remediation, including the regulations' lower bounds provisions.

The bill specifies data the working group must consider and requires it to seek public comment and stakeholder input while conducting its review and developing its recommendations. It also allows the working group to review and assess any DEEP-issued RBCRs guidance documents and recommend whether the documents should be adopted as regulations.

The DEEP and DECD commissioners must report to the Commerce and Environment committees on the working group's findings and recommendations twice, first by February 1, 2028, and then by February 1, 2030.

Working Group Membership

Current law indicates various stakeholder groups and organizations that must be represented in the working group's membership but does not specify a required number of total members or representatives from each. Beginning when the RBCRs take effect (i.e. March 1, 2026), the bill does the following:

1. generally retains the stakeholder groups that make up the working group's membership under current law but specifies the number of representatives for each, and
2. adds (a) representatives from Connecticut's business and industry and banking industry associations and (b) two members mutually agreed upon by the DEEP and DECD commissioners, one selected by each commissioner.

In total, the working group will have 25 members, including 15 stakeholder representatives, the eight chairs and ranking members of the Commerce and Environment committees, and the DEEP and DECD commissioners or their designees.

RBCRs Evaluation

Data. The bill specifies data the working group must consider when completing its RBCRs evaluation, including the:

1. total number and type of releases reported;
2. number and type of releases reported on residential properties and the status of these releases, including the timeframe and effort needed to complete remediation;
3. percentage of releases discovered through multiple lines of evidence;
4. number of remediation verifications and certificates submitted;
5. duration between the discovery and remediation of a release;
6. types and number of releases assigned to a tier for long-term cleanup management;
7. percentage of releases assigned to a group at the time of tiering;
8. number of audits conducted;
9. number of enforcement actions taken, including the number and amount of assessed fines and penalties;
10. expedited closure processes, if any, for heating oil spills at owner-occupied single-family homes;
11. number of sites remaining to be remediated under the Transfer Act and any identified compliance barriers; and
12. cost of compliance for releases on parcels with owner-occupied single-family homes and one- to four-family homes.

Lower Bounds Provisions. The bill requires the working group to evaluate the RBCRs' lower bounds provisions (i.e. standards regarding the minimum amount of a substance that is considered a release requiring remediation). The group must consider the following:

1. whether, based on available data regarding the (a) number and type of such releases in the release-based cleanup program, (b) concentration at which such releases were discovered, and (c) releases' risk to human health and the environment, additional lower bounds provisions for volatile organic substances or releases discovered in groundwater are necessary;
2. the impact of the RBCRs' pollutant mobility criteria on lower bounds;
3. the lower bounds provisions' financial impact to homeowners, if any;
4. if modifications to the lower bounds provisions may be needed to balance the protection of human health and the cost to homeowners;
5. differences between Connecticut's RBCRs and similar regulations in neighboring states; and
6. the frequency and types of testing required to determine if a release is below the lower bounds criteria.

§§ 2 & 3 — REMEDIATING TRANSFER ACT PROPERTIES UNDER THE RBCRS

Establishes conditions under which a property covered by the Transfer Act may be remediated under the RBCRs' requirements

Procedural Requirements for Remediating Transfer Act Properties Under the RBCRs

The bill establishes conditions under which a property covered by the Transfer Act may be remediated under the RBCRs' requirements and the certifying party may receive a letter from DEEP indicating that it has no further obligations under the Transfer Act's remediation requirements.

Cataloguing the Releases. Specifically, the bill authorizes any certifying party who has investigated a Transfer Act establishment and certified a Form III or Form IV (i.e. submitted specified filings under the Transfer Act) for the property according to prevailing standards and guidelines to submit a licensed environmental professional (LEP)-prepared report to the commissioner that catalogues each release the investigation discovered. (Under existing law, a “certifying party” is responsible for investigating and remediating a parcel covered by the Transfer Act.)

After receiving the LEP report, the bill allows the DEEP commissioner to audit it, but she must start the audit within 90 days after receiving the report and complete it within one year of the same date. Once she completes the audit, she can either accept or reject the LEP report. She must send her determination and any written audit findings to the respective certifying party and LEP.

Addressing the Releases. The bill allows the certifying party to address each of the catalogued releases (1) 90 days after submitting the report or (2) when the commissioner accepts the report, whichever is later. If the catalogued release will be addressed according to the RBCRs, the certifying party must, within one year after submitting the report, (1) submit a release remediation closure report for each of the releases or (2) assign them to the appropriate cleanup tier as specified under the RBCRs. Releases may be grouped for their tier assignments.

A “release remediation closure report” is a report verified by an LEP that demonstrates compliance with the RBCRs. Under the RBCRs, the closure report indicates that the cleanup standards have been satisfied and no further action is required regarding the release (Conn. Agencies Regs., § 22a-134tt-12).

Opting Out. The bill allows a certifying party, within one year after submitting the LEP report, to voluntarily opt to have the catalogued releases remediated under the Transfer Act requirements rather than the RBCRs. To do so, the certifying party must notify the commissioner of his or her decision in writing.

DEEP Transfer Act Letter. Once the certifying party has submitted a release remediation closure report for each of the catalogued releases, he or she may ask the DEEP commissioner to issue a letter indicating that the certifying party has no further obligations under the Transfer Act's remediation requirements. The commissioner must issue this letter if she determines that a release remediation closure report has been submitted for each catalogued release and (1) she accepted the report or (2) any audit period specified in the RBCRs has expired. The commissioner must also issue this letter, subject to the same requirements, if:

1. one or more certifying parties investigated the entire parcel on which one or more establishments is or was located;
2. the certifying parties submitted a report cataloguing the releases, as described above; and
3. a release remediation closure report was submitted for each of these releases.

Form III or Form IV Verifications

The bill allows a parcel owner to submit a Form III or Form IV verification even if the owner is not a certifying party. It also allows any certifying party to use this verification to demonstrate compliance with the Transfer Act, as long as at least one year has passed since the owner submitted the verification and the DEEP commissioner has not started an audit or has completed it.

Transfer Act Verification for a Portion of an Establishment

Under the Transfer Act, a certifying party may satisfy specified remediation requirements (i.e. Form III or Form IV) by submitting an LEP's verification for any portion of an establishment for which the certifying party has completed remediation. Under the bill, an LEP-verified release remediation closure report for the release, or for each of the releases if there is more than one release on the establishment, is considered a verification for these purposes.

§ 4 — EXEMPTION OF RELEASES DISCOVERED BEFORE MARCH 1, 2026, FROM RBCRS' REQUIREMENTS

Exempts release data available or created before the RBCRs take effect on March 1, 2026, from triggering the release-based requirements

Current law specifies that, on its own, release data available or created before the RBCRs' adoption do not trigger the release-based requirements. The bill instead ties this exemption to release data available or created before the RBCRs take effect (i.e. March 1, 2026). In doing so, it exempts from the RBCRs' requirements any release identified during environmental investigations from the RBCRs' adoption date (i.e. May 6, 2025) to March 1, 2026.

§ 5 — PROHIBITION ON REOPENING A REMEDIATION ON CERTAIN RESIDENTIAL PROPERTIES

Prohibits the DEEP commissioner from reopening a property's remediation if she determines that there is a violation of the release-based remediation law if the property is used only as an owner-occupied single-family home

The existing release-based remediation law and RBCRs establish circumstances under which a remediation may be reopened, including if the DEEP commissioner determines that there is a violation of the release-based remediation law. The bill prohibits the DEEP commissioner from reopening a property's remediation on this basis if it is only used for an owner-occupied single-family home.

§ 6 — RESIDENTIAL ACTIVITY RESTRICTIONS

Restricts residential activity on a residential property where a release is discovered if certain conditions are met, allowing the RBCRs' criteria for industrial or commercial property to be used when determining certain remediation requirements

The RBCRs establish remediation standards specific to the type of property on which a release occurs (e.g., residential vs. commercial or industrial property). The bill, if certain criteria are met, restricts residential activity on a residential property where a release is discovered until the release is remediated and, in doing so, allows the RBCRs' criteria for industrial or commercial property to be used to calculate RBCRs exemptions or determine if remediation obligations, including those regarding characterization, are met.

Under the bill, residential activity must be considered restricted when a release is discovered if (1) the parcel on which the release is

discovered must not be available or used for residential activity and (2) the person who created or is maintaining the release notifies the commissioner of the restriction within 30 days after the release is discovered. Notification to the commissioner must:

1. identify the release's date and approximate location,
2. describe the current use of the parcel where the release was discovered,
3. contain certification from the owner that a) no residential activity is being conducted on the parcel and b) residential activity will be restricted, and
4. be verified by an LEP.

A person who created or is maintaining a release must inspect the parcel for residential activity and submit an updated notification to the commissioner annually until the release is remediated.

The bill specifies that an imposed residential activity restriction does not relieve a person from complying with the RBCRs' requirement to record an environmental use restriction. If a release is exempt from the RBCRs because residential activity has been restricted under this bill's provisions, an environmental use restriction must be recorded within 30 months after the release's discovery. If the environmental use restriction is not recorded, the residential activity restriction does not apply, and the release must be remediated to the RBCRs' standards for residential activity.

BACKGROUND

RBCRs

The DEEP commissioner, with advice and feedback from a working group of agency officials, legislative leaders, and stakeholder members, developed RBCRs, which the Regulations Review Committee approved on April 22, 2025. Under existing law, the adoption of these regulations transitions the state from the Transfer Act to a release-based approach. The regulations were adopted May 6, 2025, and take effect March 1,

2026.

Related Public Act

Public Act 25-6 makes changes related to the state's transition from the Transfer Act to a release-based remediation approach, including making the new approach effective when the RBCRs take effect, rather than on their adoption date, and creating a new voluntary parcel-wide remediation program.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/20/2025)